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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,696	11/06/2001	John Eric Arnold	DN1999111USA	1392

7590 08/17/2004

The Goodyear Tire & Rubber Company
Patent & Trademark Department D 823
1144 East Market Street
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EXAMINER

NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/009,696

Applicant(s)

ARNOLD ET AL.

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Page 607 of dictionary.

DETAILED ACTION

Claim Rejections - 35 USC § 102/103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7 and 10-15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ecktmann et al. (USP 5,201,500).

Re: claim 1, Ecktmann et al. show an airspring, as in the present invention, comprising: a flexible sleeve 10; first retainer 2; second retainer 12, 20; wherein second retainer 12, 20 having an integrally formed bumper-contact surface within the sleeve 10 for axial movement into the sleeve, for contact with the first retainer 2; and for absorbing and transmitting forces generated from such contact; the bumper surface being centrally located on the surface of the retainer which extends into the sleeve during axial movement into the sleeve. It is understood applicant's intention in the use of the phrased "integrally formed"; however, to make integral of several individual elements

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have been a well-known and well-practiced engineering concept. Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to have an "integrally formed-bumper contact surface" with the same structure as Ecktman's air spring. Since making integral of several individual elements have been a well-known and well-practiced engineering concept to save cost and installation time.

Re: claims 2, 3 and 4, Ecktman shows support ribs 43, 26, 27, 29, 30 wherein said ribs are substantially radially extending; and are a series of concentrically disposed.

Re: claims 5 and 6, Ecktman shows the first contact surface to be closer to the center corresponds to rib 29, the second contact surface to be further out corresponds to rib 30 and are separated by a dimension wherein said dimension is considered a design choice.

Re: claim 7, Ecktman shows piston 3, flexible sleeve 10 and bead rings 13 and 11.

Re: claim 11, Ecktman et al. show an airspring, as in the present invention, comprising: a flexible sleeve 10; first retainer 2; second retainer 12, 20; wherein second retainer 12, 20 having an integrally formed bumper-contact surface within the sleeve 10 for axial movement into the sleeve, for contact with the first retainer 2; and for absorbing and transmitting forces generated from such contact; the retainer comprising two concentrically disposed ribs 29, 30 connected by radially extending ribs 26, 27. It is understood applicant's intention in the use of the phrased "integrally formed"; however, to make integral of several individual elements have been a well-known and well-

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practiced engineering concept. Hence, it would have been obvious to one of ordinary skill in the art at the time of the invention to have an "integrally formed-bumper contact surface" with the same structure as Ecktman's air spring. Since making integral of several individual elements have been a well-known and well-practiced engineering concept to save cost and installation time.

Re: claim 12, Ecktman shows ribs 43, 29, 30.

Re: claim 13, Ecktman shows the first contact surface to be closer to the center corresponds to rib 29, the second contact surface to be further out corresponds to rib 30 and are separated by a dimension.

Re: claim 14, Ecktman shows the first contact surface to be closer to the center corresponds to rib 29, the second contact surface to be further out corresponds to rib 30 and are separated by a dimension wherein said dimension is considered a design choice.

Re: claim 15, Ecktman shows the bumper-contact surface to be radially inward.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ecktman et al. in view of Koschinat et al. (USP 4,890,823).

Ecktmann's airspring, as discussed in the rejection of claim 1 above, is silent of a material being used in the construction of the second retainer. Koschinat et al. teach the concept of using a glass fiber-reinforced plastic material in the construction of retainer 1, column 2, lines 7-18 to lighten the weight of the retainer as well as providing a non-corrosive retainer that could withstand the force of contact from the upper retainer. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a glass fiber-reinforced plastic material such as taught by Koshinat in the construction of Ecktmann's retainer in order to lighten the weight of the retainer as well as providing a non-corrosive retainer that could withstand the force of contact from the upper retainer. Regarding the claimed tensile and flex strengths in claim 8, these are considered design choices and would have been different to each airspring depending on the vehicle that the airspring is being designed.

Response to Arguments

6. It is noted that Applicant has requested the Amendment after Final filed on August 6, 2003 to be considered as a part of the Request for Continued Examination filed 6/30/04. Said Amendment was entered prior to the Request for Continued Examination according to the Advisory Action dated 3/2/04.

7. Applicant's argument has been considered but found non-persuasive. Applicant argues that Ecktmann's bumper is formed as a separate element and not as a part of the retainer as recited. Applicant's argument is more specific than the claim language. The phrase "integrally formed", according to Webster's Collegiate Dictionary, tenth edition,

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means "composed of integral parts". A copy of page ⁶⁰⁷~~609~~ the dictionary is enclosed for Applicant's convenience. Ecktman's retainer 12,20 meets the meaning of integrally formed because the retainer is composed of integral parts 12 and 20. Hence, the 102(b) rejection is still deemed proper and is repeated above.

8. Applicant cited a passage from column 4, lines 22-27 of Ecktman, stating that Ecktman chooses not to simplify his design by forming parts integrally; and instead teaches the use of varying bumper heights. This passage has been carefully reviewed and found to disclose none of the stated reasons above. The Examiner is at a loss of Applicant's argument. The 103(a) rejection is still deemed proper and is repeated above.

Conclusion

9. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lan Nguyen 8/6/04
Lan Nguyen
Patent Examiner
A. U. 3683

